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Paper No. 30

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Round Lake, IL 60073

COPY MAILED

JUL 30 2004

OFFICE OF PETITIONS

In re Application of :
Brown et al. :
Application No. 09/050,614 :
Filed: March 30, 1998 :
Attorney Docket Number: F-5231 : ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 17, 2004, to revive the above-identified application. The petition is properly treated under 37 CFR 1.137(a).

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, and Notice of Allowability (hereinafter "Notices"), mailed March 13, 2003. The Notices set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on June 14, 2003. A Notice of Abandonment was mailed July 17, 2003.

Applicant files the instant petition wherein Applicant avers that he did not receive the Notice.

Applicant is advised that an allegation that an Office action was not received may be considered as a petition for the withdrawal of the holding of abandonment. If the allegation is adequately supported, the petition may be granted and a new Office action mailed. The showing required to establish non-receipt of an Office communication must include:

1. A statement from the Applicant stating that the Office communication was not received by the Applicant and attesting to the fact that a search of the file jacket and docket records indicate that the Office communication was not received.

2. A copy of the file jacket or docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in Applicant's statement.

Accordingly, Applicant's assertion, that the Notice was not received, is insufficient to justify withdrawing the holding of abandonment. Applicant must also attest to the fact that a search of the file jacket and docket records indicate that the Notice was not received, and provide a copy of the docket record (or file jacket) where the non-received Notice would have been entered had it been received and docketed.

Petitions to withdraw the holding of abandonment are properly treated under 37 CFR 1.181 (no fee), and are appropriately addressed in the Technology Center that abandoned the application.

Applicant should file a petition under 37 CFR 1.181, and alternatively a Request for Reconsideration under 37 CFR 1.137(a).

Applicant is also advised the the Notice of Allowability required corrected drawings which included the changes required by the proposed drawing correction filed February 10, 2000, which has been approved by the Examiner.

A copy of the Notice of Allowance and Issue Fee Due and Notice of Allowability are enclosed herewith.

A refund of the difference between the fee for a petition under 37 CFR 1.137(b), \$1330, and the fee for a petition under 37 CFR 1.137(a), \$110.00, or \$1220.00, has been credited to deposit account 06-2360.

It is also noted that Attorney Ryan has changed his correspondence address; however, there is no indication that a correspondence address change was filed in this application. Any assertion that the Office action was not received must also include a Declaration from Practitioner that, at the time the Office action would have been received at the correspondence

address of record, the correspondence address was in fact a valid correspondence address. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: 220 20th Street S.
 Customer Window
 Crystal Plaza Two, Lobby Room 1B03
 Arlington, VA 22202

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0014.


Derek L. Woods
Petitions Attorney
Office of Petitions

Cc: RYAN KROMHOLZ & MANION, SC
 Post Office Box 26618
 MILWAUKEE, WI 53226

Enclosures: Notice of Allowance and Notice of Allowability